**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

SECOND APPEAL NO.85 OF 2002

Sou.Vasanti K. Choudhari
and ors. .. Appellants.

Vs

Vijaykumar Deoji Vaiti, .. Respondent.

Mr S.A.Abhyankar i/b Mrs Anjali N.Helekar, for the appellants.

Mrs Gauri Godse, for respondent.

**CORAM : D.B.BHOSALE,J.**
**DATE : 05/03/2007**

**PC:**

1. Heard the learned counsel for the parties.

2. The concurrent judgments of the courts below, decreeing a suit filed by the respondent-plaintiff for partition and separate possession, are under challenge in the present appeal. The plaintiff claims that the suit properties were joint family properties whereas the appellants-defendants have set up a case that the suit properties were self-acquired properties of their father Devaji Keshav and he bequeathed those properties to the defendants by a Will dated 2.3.1983. Mr.Abhyankar, learned counsel for the appellants, assailed the impugned judgments contending that the findings of facts recorded by the courts below are perverse. He submitted

that the courts below have not considered the admissions given by the plaintiff in his evidence. I perused the impugned judgments as also evidence of the plaintiff. I did not find perversity in the findings recorded by the courts below. In fact, I found sufficient material on record to sustain the findings recorded by the courts below. Both the courts have considered the evidence on record in proper perspective and rightly held that there is no satisfactory evidence forthcoming to show that the deceased Devaji had an independent source of income and he had purchased the suit properties as claimed by the defendants. Even in respect of the separate income of Devaji, the appeal court in paragraph 17 has categorically recorded that there is no pleading in the written statement regarding the source of income. As against this, in paragraph 18 of the judgment, the appeal court has observed that there was sufficient nucleus from which the suit properties were purchased. No substantial question of law is involved in the instant appeal. Keeping that in view and considering the concurrent findings of facts and considering the extremely limited jurisdiction of this Court to disturb the findings of fact, the second appeal fails and dismissed as such.

(D.B.BHOSALE,J.)